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	Pledge of Allegiance
A-1	No one wished to be heard during the Open Comment Period.
B-1	President Dennis Hanson called the meeting to order at 7:00 P.M. with the following members present: Councilmembers Amy Blenker, Pat Carr, Marcia Marcoux, Jean McConnell, Sandra Means, and Bob Nowicki. Absent: None. Mayor Brede was not present.
C-1	Councilmember Marcoux moved, Nowicki seconded, to adopt Resolution No. 134-05 referring the petition for Alley Reconstruction in the 500 block between 9 <sup>th</sup> Ave. SW and 10 <sup>th</sup> Ave. SW to the Public Works Department for a feasibility study. Ayes (7). Nays (0). Motion carried.
D-1-4, 6-8, 10-24	Councilmembers McConnell moved, Carr seconded, to approve the following consent agenda items.
D-1	Approved the minutes of the March 21, 2005, March 28, 2005 and April 4, 2005 minutes.
D-2	Amend Annual Appointments by Council President Dennis Hanson.
D-3	Approved the appointments of Leslie Rivas, Kristopher Douglas, Carol Jech, Diane Tloughan and Gail Eadie to the Committee on Urban Design & Environment.
D-4	Approved reappointment of Jim Judisch and Jay Maier to the Committee on Urban Design and Environment.
D-5	See at end of D items.
D-6	Adopted Resolution No. 135-05 authorizing the fire protection service agreement extension with the four townships from 1/1/2006 through 12/31/2015.
D-7	Adopted Resolution No. 136-05 executing the FAA Grant for Runway 13-31 improvements.
D-8	Approved amendment to the Minutes of November 1, 2004, Item E-8 referring to the Design Modification.
D-9	See at end of D items.
D-10	<b>Approved</b> the On Sale Intoxicating and Sunday Liquor License for the Phoenix <b>Hotel</b> LLC DBA Comfort Inn of Rochester from a restaurant to a street bar license.
D-11	Approved Accounts Payable in the amount of \$4,961,158.23 and Investment Purchases of \$2,997,738.00.

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D-12	Adopted Resolution No. 137-05 approving the contract with Underwriters Laboratories for testing of the Aerial Fire Apparatus.
D-13	Adopted Resolution No. 138-05 approving the purchase of the MUSCO athletic field lighting system for the baseball portion of the Fuad Mansour Sports Complex.
D-14	Adopted Resolution No. 139-05 approving the Orderly Annexation #05-04 by Rochester Area Habitat for Humanity to annex Lot 5, Block 3, Rose Harbor 4th Subdivision.
D-15	Adopted Resolution No. 140-05 approving participation in grant application process for Safe Schools Healthy Students Initiative and execute memorandum of Agreement.
D-16	Adopted Resolution No. 141-05 approving execution of the Software Development Agreement with Thomson Software Solutions, Inc.
D-17	Adopted Resolution No. 142-05 approving the contract with Pyramid Concepts for the Rochester Police Range facility.
D-18	Adopted Resolution No. 143-05 authorizing the Mayor and City Clerk to execute the Professional Engineering Services Agreement with McGhie & Betts, Inc. for Water infiltration study, analysis, and survey for the Southwood Townhomes.
D-19	Adopted Resolution No. 144-05 authorizing the City Clerk to advertise for bids for Project No. J-6517, "Surface Water Improvements to Common Area North of 7 ½ Ave. NE".
D-20	Adopted Resolution No. 145-05 awarding the contract for Project J-6523, "Storm Sewer Extension in Woodland Drive SW from Baihly Hills Drive SW to approximately 450 ft SE", to Winona Mechanical in the amount of \$89,985.00.
D-21	Adopted Resolution No. 146-05 approving execution of the City/Owner Contract for J-5156, "Basic Construction in Stonehedge Estates Fourth Subdivision" conditioned on Final Grading Plan approval and the Final Plat matching the approved Grading and Construction Plans with Stonehedge Land Development, LLC and Elcor Construction, Inc.
D-22	Adopted Resolution Nos. 147-05, 148-05 and 149-05 accepting the Feasibility Report for Project No. 6207-4-00, (J-9712) "Reconstruction of 7 <sup>th</sup> Street NW". establishing a Project Hearing and Assessment Hearing for May 16, 2005.
D-23	Adopted Resolution No. 150-05 executing an Investment Retainage Agreement with Bor-Son Construction for the 5% retainage from progress payment for the 2004 Plant Upgrade Project.
D-24	Adopted Resolution No. 151-05 approving a Revocable Permit for landscape improvements within public right-of-way abutting part of Block 29, Head & McMahon's Addition.

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D-5	<p>Councilmember Marcoux felt Jarett Ruud did not comply with the condition of attending the Crime Free Multi-Housing Class and should not be eligible for the \$250 fine reduction.</p> <p>Councilmember Marcoux moved, Nowicki seconded to deny the request for the fine reduction. Ayes (1), Nays (6). Motion denied. Councilmember Marcoux voted yes.</p> <p>Councilmember Means moved, McConnell seconded to allow Mr. Ruud to attend the September Crime Free Multi-Housing Class and reduce the fine by \$250 after attendance. Ayes (6), Nays (1). Motion carried. Councilmember Marcoux voted nay.</p>
D-9	<p>President Hanson explained that Bilotti's pulled their Sound Amplification request.</p> <p>Councilmembers McConnell moved, Marcoux seconded to approve the following licenses and miscellaneous activities with the exception of Bilotti's Sound Amplification Permit. Ayes (7), Nays (0). Motion carried.</p> <p><b><u>CIRCUS</u></b> Rochester Jaycees 415 3<sup>rd</sup> Ave SE Rochester, MN. 55904 Carden Circus 4/27/05 &amp; 4/28/05 Mayo Civic Center</p> <p><b><u>FIREWORKS DISPLAY</u></b> Rochester Post Bulletin Charities 18 1<sup>st</sup> Ave SE Rochester, MN. 55904 Annual July 4<sup>th</sup> Fireworks Display 7/4/05 Silver Lake Dredge Pit</p> <p><b><u>GAMBLING – TEMPORARY</u></b> PossAbilities of Southern Minnesota 1808 3<sup>rd</sup> Ave SE Rochester, MN. 55904 Raffle 8/20/05 AT Ramada Hotel &amp; Conference Center 1517 16<sup>th</sup> St SW</p> <p><b><u>OUTDOOR DINING RENEWALS</u></b> Bilotti's Italian Restaurant 304 1<sup>st</sup> Ave SW</p> <p>City Café 212 1<sup>st</sup> Ave SW</p>

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	<p>Daube's Bakery, Inc. 14 3<sup>rd</sup> St SW</p> <p>Mac's Restaurant 20 1st St SW</p> <p>Wong's Café 4 – 3rd St SW</p> <p><b><u>SEWER &amp; DRAIN</u></b> Dahn Construction Co., Inc. 13135 Doyle Path east Rosemount, MN. 55068</p> <p><b><u>SOUND AMPLIFICATION</u></b> Carlos O'Kelly's 4825 Hwy 52 North Rochester, MN. 55901 Cinco de Mayo Party    5/5/05    3:00 PM to 10:00 PM</p> <p>Bilotti's Italian Village 304 1<sup>st</sup> Ave SW Rochester, MN. 55902 50<sup>th</sup> Anniversary Cancer Benefit    5/26/05    5:00 PM to 10:00 PM</p> <p><b><u>MISCELLANEOUS CITY ACTIVITIES</u></b> Red Ribbon Ride 4457 3<sup>rd</sup> Ave South Minneapolis, MN. 55419 Minnesota Fighting AIDS on Bikes    7/15/05 &amp; 7/16/05</p> <p>Veterans of Foreign Wars 1215 6<sup>th</sup> St SW Rochester, MN. 55902 Annual Poppy Days    5/13/05 &amp; 5/14/05</p> <p>Bilotti's Italian Village 304 1<sup>st</sup> Ave SW Rochester, MN. 55902 50<sup>th</sup> Anniversary Cancer Benefit    5/26/05    5:00 PM to 10:00 PM</p>
E-1	<p>A Hearing on General Development Plan #252 by Hanson and Young, LLC to be known as Scenic Oaks Lakeview located south of the Scenic Oaks Development, West of the Willow Creek Reservoir and north of 60<sup>th</sup> Street SW.</p> <p>Wishing to be heard was Geoff Griffin, GGG Inc. 14070 Hwy 52 SE, Chatfield representing the developer. He clarified that the project is a high density residential with all R-1 single family lots, that there will be no twin-home units on park land, that the land is not a habitat for nesting fowl but a field for an agricultural crop. He</p>

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also stated that the City of Rochester owns the property where the reservoir is located.

Mr. Griffin stated that they have met with the South Zumbro Joint Powers Board and are willing to make some changes they suggested regarding the storm water retention ponds and upgrade the trail system by relocating the trail onto their property giving it a higher level. This would eliminate the trail water problems. They also agreed to help with some wetland mitigation for the Park Department.

Mr. Griffin explained that the density for this project is approximately 1.28 lots per acre which is under the maximum for R-1 zoning. Also that the closest house abutting the water will be 250 feet back where DNR guidelines require 75 feet. He submitted copies of a report showing the wetlands affected by the road construction.

The road crosses the city land to the north and is located according to the previous general development plan but the developer would be willing to work with the city to possibly move the road to the west, but this would cause a steeper road. Mr. Griffin also stated they would be agreeable to creating a natural buffer along the shoreline between the path and the back of the homes.

Mr. Griffin stated they were in agreement with the nine conditions including the Planning Commission condition regarding ISTS System.

Wishing to be heard was Nora Dooley, 5497 Leslie Lane SW. Ms. Dooley presented a PowerPoint presentation showing pictures of the many different species of birds using the reservoir and the different landscapes. She stated she wasn't opposed to development but would like to have as much natural habitat remain in the area as the development is progressing.

Wishing to be heard was Charles Huskins, 1323 Long Pine Dr. SW representing a group of residents that have submitted a petition requesting an Environmental Assessment Worksheet. He continued the PowerPoint presentation and explained his reasoning in submitting this request.

Mike Nigbur, Public Works Department, explained the reservoir has a certain capability for storm water storage and the water quality will be provided on the developer's property with the ponds proposed on the GDP.

Phil Wheeler, Planning Commission, explained that the EAW would not make a difference to the quality of the development. The city and county staff review of the development addresses the many issues required to make sure the development is within the city guidelines. The city ordinance doesn't address migratory fowl. The EAW is not mandatory, but if the Responsible Governmental Unit, being the Council, determines the project may have significant environmental affect, a EAW can be ordered in response to a citizen petition.

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<p>Wishing to be heard was Wayne Vogt, 4810 Scenic Oaks Drive SW. Mr. Vogt expressed his concern that developing this land would affect the habitat and environment of the area. He asked the council to develop wisely for this area because of the beauty.</p> <p>Wishing to be heard was Bill Bruins, 1538 11<sup>th</sup> Ave. NE, representing members of the Zumbro Valley Audubon Society. Mr. Bruins referred to a field study by Anne Marie Plunkett, Olmsted County Soil &amp; Water Conservation Service, that reported on the many species of birds found using the Willow Creek Reservoir. He would like to see a buffer space to shield the human activities from the wildlife using the area.</p> <p>Wishing to be heard was James Mosser, 3617 Arlington Lane SE, representing Zumbro Land Conservancy. He asked the Council for a close scrutiny of the area and agreed that a EAW is appropriate for the area. He would like to see an alternative to the northern access and increased buffer space.</p> <p>Wishing to be heard was Charles Huskins, 1323 Long Pine Dr. SW. He asked for clarification of the Council receiving the petition for a EAW and how that would affect the action on the GDP.</p> <p>Terry Adkins, City Attorney, explained that the council has 30 days to respond once the petition was submitted to the City by the Environmental Quality Board. There is nothing in the Administrative Rules that says the Council cannot take action on the GDP pending a petition for discretionary EAW. He explained that the council could create a condition that the approval is subject to what action is taken in response to the petition process.</p> <p>Wishing to be heard was Geoff Griffin, GGG Inc. 14070 Hwy 52 SE, Chatfield. He wanted to clarify the acreage of the land being utilized for the current road alignment is 1.16 acres. He also stated they were in agreement that there would be no grading or construction during the bird migration period of March 15 to August 15. He explained that the water quality will improve with the storm water management plans they are proposing with this development.</p> <p>Wishing to be heard was Diane Carey, 1323 Long Pine Dr. SW, stated John Larson of the Environmental Quality Board has deemed the petition as valid and forwarded it to Brent Svenby. Mr. Svenby stated he has not received it as of today's meeting.</p> <p>Having no one further wishing to be heard President Hanson closed the hearing.</p> <p>Council, staff and Mr. Griffin discussed conditions acceptable to approve the GDP.</p> <p>Councilmembers Carr moved, McConnell seconded to approve General Development Plan #252 by Hanson and Younge, LLC to be known as Scenic Oaks Lakeview with nine conditions recommended by staff and include condition ten requiring the developer to provide a 50 foot buffer along rear lot lines of the properties abutting the park lands along the reservoir, the buffer shall be maintained with native grasses and other plants consistent with DNR guidelines,</p>

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	<p>includes condition eleven requiring the developer to move the access road to the west if the public works director determines it is feasible and complies with applicable city standards, includes condition twelve stating the developer will do no road grading (above and below ground) between Scenic View Drive and north of the intersection of the first easterly proposed road of the GDP during the period of March 15<sup>th</sup> through August 15<sup>th</sup>.</p> <p>There was discussion on the floor regarding the conditions.</p> <p>Councilmembers Carr moved, Nowicki seconded to amend his motion to included a thirteenth condition requiring that the development is subject to the determination of and any consequences resulting from any discretionary petition for an EAW that might be filed concerning this development. Ayes (7), Nays (0). Motion carried.</p> <p>Councilmembers Carr moved, McConnell seconded to approve General Development Plan #252 by Hanson and Younge, LLC to be known as Scenic Oaks Lakeview with 13 conditions as stated in amended motion and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p>
E-2	<p>A Hearing to Amend General Development Plan #135 known as Scenic Oaks by providing an access roadway to the property to the south</p> <p>Wishing to be heard was Geoff Griffin, GGG Inc. 14070 Hwy 52 SE, Chatfield representing the developer. He stated they were in agreement with the conditions including the condition #11 from the previous hearing referring to the road alignment.</p> <p>Councilmembers Marcoux moved, Nowicki seconded to approve General Development Plan #135 known as Scenic Oaks with staff recommended six conditions and condition 11 from Hearing E-1, regarding the road alignment from the previous motion and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p>
E-3	<p>A Hearing on Restricted Development Preliminary Plan #05-06 by Rochester Sand &amp; Gravel to operate a hot mix asphalt plant within the Quarve Quarry Pit.</p> <p>Wishing to be heard was Pat Peterson, 4105 East River Road NE, Operations Manager and Vice President for Rochester Sand &amp; Gravel. Mr. Peterson presented a PowerPoint presentation explaining the plant and its operation. He explained the many different changes to the asphalt operation over the past 2 years in an effort to minimize the problems of the asphalt plant. The main resolution to the periodic odor complaints will be to extend the bag-house stack height to 130 feet above the ground to increase air dispersion and greatly reduce the effect of air emissions. He stated he is in agreement with the three conditions for approval.</p> <p>Council is concerned about citizen complaints regarding odor from the plant. McConnell and Means suggested only a one year extension.</p>

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Wishing to be heard was Dr. Laura Green, Toxicologist, 58 Charles Street, Cambridge, MA. She explained that a stack model has been tested and the results show significant improvements of emissions if the stack is extended to the proposed height. In her opinion, the pollutants that come from the asphalt plant are not any more harmful than highway traffic.

Wishing to be heard was Mary Lou Soukup, 5905 Hwy 63 S. Mrs. Soukup presented a calendar from April 2003 to December 2004 showing her view on the activities of the asphalt plant and the affect on her health. She referred to some of the Council's conditions on the last approval and feels these conditions are not being met and is opposed to the asphalt operation continuing at this location.

Wishing to be heard was Margaret Mestad, 105 60<sup>th</sup> Street SW. Mrs. Mestad spoke of her being a sensitive receptor with respiratory problems. She spoke of not being able to enjoy her yard and gardening. Her husband has now started using inhalers and she feels this is because of the air quality at their home due to the emissions from the plant. The adjustments made have not improved the situation and she is opposed to the asphalt operation continuing. She also spoke of PCI, and how there use of the site has been noisy and dusty. There have also been times that the trucks hauling have blocked traffic at 60<sup>th</sup> Street and TH 63 making it impossible for emergency vehicles to get to their home if needed. She asked where the permit for hauling came from.

Wishing to be heard was Dr. Laura Green, Toxicologist. She stated that additional stack height would allow additional dispersion which would lessen the impact. Dr. Green stated that the lengthening of the stack height is not being constructed due to any air quality impact because they were not found to be unacceptable. It is proposed to try to help the situation. In her professional opinion the emissions from the asphalt plant are not as bad for the environment as landfills and sewage plants.

Wishing to be heard was Pat Peterson, 4105 E River Road NE. Mr. Peterson stated they would not be operating the plant until the new stack was built. In regards to the PCI issue, the permit was issued by the Planning Department because it fell within the ordinance guidelines, but Rochester Sand & Gravel will not request this in the future.

Having no one further wishing to be heard President Hanson closed the hearing.

Councilmember McConnell moved, Blenker seconded to adopt Resolution No. 152-05 approving the Restricted Development Preliminary Plan #05-06 by Rochester Sand & Gravel, a Division of Mathy Construction Company with three conditions, amending condition three to one year and a fourth condition for the council to approve any Temporary Use Permits for the plant and approving the waiver of the Final Plan Review. Ayes (5), Nays (2). Motion carried. Marcoux and Nowicki voted nay. Councilmembers Carr noted affiliation with Rochester Sand & Gravel and Mathy Construction.



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E-4	<p>A Hearing on Type III, Phase II Restricted Development Conditional Use Permit #05-09 by Tiburon Construction, Inc. to construct mini-storage warehouses within the M-2 zoning district located east of Valleyhigh Drive NW, north of Instrument Drive NW and west of IBM.</p> <p>Wishing to be heard was Fred Dahm, 1222 9<sup>th</sup> Street NE owner of Tiburon Construction was in agreement with the conditions and many had already been met before the hearing.</p> <p>Councilmembers Means moved, McConnell seconded, to adopt Resolution No. 153-05 approving Conditional Use Permit #05-09 by Tiburon Construction with eight conditions and approving the waiver of the Final Plan Review. Ayes (7), Nays (0). Motion carried.</p>
E-5	<p>A Hearing on General Development Plan #253 by By Us, LLC to be known as Pinewood Summit located north of Highway 52, south of 26<sup>th</sup> Street SE, east of the Quinstar development and connects to Pinewood Ridge development.</p> <p>Wishing to be heard Goeff Griffin, GGG Inc. 14070 Hwy 52 SE, Chatfield, representing the applicant. He stated they have made a modification for a mid-block connection between block 12 &amp; 13. The grading plan will be studied when that comes forward in the development plan. He stated they were in agreement with the conditions and was available for any questions.</p> <p>Wishing to be heard was Joe Nordby, 2627 25<sup>th</sup> Ave. SE. He asked for the developer to establish an access other than 25<sup>th</sup> Ave. His suggestion was to build the road west to County 1. He stressed that the road along 25<sup>th</sup> Ave was built as a residential street and is narrow and steeper than city requirements. He feels this should not be a through street for the development because the winter snows cause problems and there is a blind spot at the top of the hill. He stated the school district recognizes this street as a dangerous road because it has no shoulder or sidewalks.</p> <p>Wishing to be heard was Jan Schlosnagle, 2530 25<sup>th</sup> Ave. SE. Her concern is with 25<sup>th</sup> Ave. being the access road to the development.</p> <p>Wishing to be heard was Jim Pacyna, 2529 25<sup>th</sup> Ave. SE. He stated the property owners on 25<sup>th</sup> Ave. own a large portion of the right-of-way on the road. He is concerned with the cost of making this a safe road will be put upon the land owners and not the developers once this has become a more traveled road.</p> <p>Richard Freese, Public Works Director, stated the transportation improvement district has not been created for this area. The only road to be included in discussion so far would be Pinewood Road. He stated, as in other cases throughout the city, the roadway capacity improvements to substandard streets are paid for through TID charges or development charges. In all cases, curb and gutter and sidewalk improvements are paid for by the abutting property owners.</p>

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Wishing to be heard Patrick O'Dea and Cheryl O'Dea, 2500 28<sup>th</sup> St. SE. Mr. O'Dea stated he was opposed to the city purchasing his property to allow for the access on 25<sup>th</sup> Ave. There were rumors of the city using condemnation procedures to acquire the land but this was determined to be unfounded.

Wishing to be heard was Jim Mosser, 3617 Arlington Lane SE. Mr. Mosser stated his concern was for the street lighting and asked that it be low shielded so it can be more localized. Brent Svenby stated the lighting would be done to city standards.

Wishing to be heard was Jon Steberg, 2439 23<sup>rd</sup> Ave. SE. Mr. Steberg stated his concern for the increase in traffic even onto Pinewood Road with all the development in the area.

Wishing to be heard was Gary Olson, 2510 28<sup>th</sup> St. SE. Mr. Olson stated he is a land owner and part of the development. In 1999 he was annexed into the city and is now required by law to hook up to city utilities. His land lease with the O'Dea's for his access driveway connects his property to 25<sup>th</sup> Ave. and is a restricted lease and the O'Dea's will not allow him to subdivide his property or install utilities to serve his property. He contacted the O'Dea's to purchase a portion of their property to construct the road, but was denied. He stated this development was the only option left to him and he is concerned that this will be denied too. He explained that if his well and septic systems fail he has no way to correct it and his home and property would be lost.

Richard Freese confirmed Mr. Olson's unique situation.

Patrick and Cheryl O'Dea explained that they would be willing to sign an easement agreement for the extension of public utilities to serve Mr. Olson's single dwelling. Staff was directed to work with the parties involved to see if a solution can be found to help both property owners. Mr. Olson indicated that the O'Dea's had previously refused such an agreement.

Wishing to be heard was Charlie Kirchner, 2524 25<sup>th</sup> Ave. SE. Mr. Kirchner stated he was a school bus driver and he wanted the council to know that 25<sup>th</sup> Ave. has been condemned by the school district as unsafe during the winter.

Wishing to be heard was Gene Ostrom, 2811 Pinewood Road SE. Mr. Ostrom requested a traffic survey be conducted for Pinewood Road and 30<sup>th</sup> Ave. He also asked if 20<sup>th</sup> Street could be extended east. Staff explained that the city has an official map for extending 20<sup>th</sup> Street to Marion Road and has submitted numerous applications for this project but those requests have not been approved by MNDOT.

Wishing to be heard was Jim Claire, 2718 26<sup>th</sup> Ave. SE. He stated his concern for the traffic and road conditions on Pinewood Road. He would like to see a frontage road parallel to TH 52 to relieve traffic going through the existing residential areas.

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	<p>Wishing to be heard was Geoff Griffin, explaining that he represents Quinstar, the property owner to the west of the proposed development and when the Quinstar GDP was approved they could not develop the portion of that property abutting this project because of the vertical topography and the Decorah shale. He also mentioned that turn lanes on Pinewood Ridge Road have been completed.</p> <p>Having no one further wishing to be heard, President Hanson closed the hearing.</p> <p>There was discussion about the road connection with 25<sup>th</sup> Ave. to the subdivision. Council and staff felt this should not be taken out of the GDP and considered for possible future connection if the situations with the property owners change. For this development to have a different access road, a new development proposal would have to be presented for review.</p> <p>Councilmembers Nowicki moved, McConnell seconded, to approve General Development Plan #253 by By Us, LLC to be known as Pinewood Summit with eight conditions and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (6), Nays (1). Motion carried. Councilmember Carr voted nay.</p> <p>Councilmembers Marcoux moved, Nowicki seconded to deny the request for the Design Modification #05-03 to eliminate the requirement for mid-block pedestrian connections. Ayes (7), Nays (0). Motion carried.</p>
E-6	<p>Councilmember Blenker left the Council Chambers.</p> <p>A Hearing on Preliminary Plat #05-09 to be known as Boulder Ridge Four by Arcon Development and Substantial Land Alteration permit for land located south of 67<sup>th</sup> Street NW, west of 18<sup>th</sup> Ave. NW and north of the future Overland Drive NW.</p> <p>Having no one wishing to be heard President Hanson closed the hearing.</p> <p>Councilmembers Means moved, Marcoux seconded, to approve Preliminary Plat #05-09 to be known as Boulder Ridge Four by Arcon Development with nine conditions and instructed the City Attorney to prepare Findings of Facts, Conclusions of Law, and Order and adopt Resolution No. 154-05 approving the Substantial Land Alteration Activity. Ayes (6), Nays (0). Motion carried. Councilmember Blenker was absent for the vote.</p> <p>Councilmember Blenker returned to the Council Chambers.</p>
E-7	<p>A Hearing on Preliminary Plat #05-10 to be known as River Court Estates by RJY Development, Inc. located at the westerly extent of River Court NE and North River Court NE and east of the South Fork of the Zumbro River.</p> <p>Wishing to be heard was Wade DuMond, Yaggy Colby Associates representing the developer. He stated they were in agreement with the conditions and was available for any questions.</p>

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E-8	<p>Wishing to be heard was Mark Heminger, 102 North River Court NE. Mr. Heminger was concerned with the drainage for the back yards of North River Court and River Court. Mr. DuMond explained that drainage is toward the west, caught in a basin and drained into a temporary pond and will be designed to City standards and reviewed by Public Works.</p> <p>Wishing to be heard was Kathy Maegerlein, 126 Cheval Lane NE. She stated this was flooded last year and asked how this will be taken care of for the future. Mr DuMond said they won't be touching the flood plain for the development.</p> <p>Having no one further wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers Nowicki moved, Means seconded, to approve Preliminary Plat #05-10 to be known as River Court Estates by RJY Development, Inc. with seven conditions with the change in number four and instructed the City Attorney to prepare Findings of Facts, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p> <p>A Hearing on Preliminary Plat #05-11 to be known as Meadow Lakes First Addition by Younge Development and Substantial Land Alteration and Design Modification #05-11 for property located west of West Circle Drive and south of the Meadow Lakes Golf Course.</p> <p>Wishing to be heard was Geoff Griffin, GGG Inc. 14070 Hwy 52 SE, Chatfield, representing the applicant. He stated they were in agreement with the conditions and explained why they asked for the Design Modification.</p> <p>Mike Nigbur explained that according to city ordinance, sidewalks on both sides of the street are required.</p> <p>Wishing to be heard was Janet Walch, 622 44<sup>th</sup> Ave. Court SW. She explained that her back yard abuts Meadow Lake Golf Course and she has drainage problems with the rain collecting in her back yard. She feels if the land next to her is raised 10 feet according to the grading plan, this will make her problem worse. Mr. Griffin explained that there will be a park abutting her property as a buffer. Mike Nigbur also explained that the Public Works Department's review of the grading plan takes into account the drainage from the roads, the overflow from existing ponds and impacts on adjacent property.</p> <p>Wishing to be heard was Darlene Burchfiel, 658 44<sup>th</sup> Ave. Court SW. She also was concerned with the drainage because of past flooding in the area.</p> <p>Having no one further wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers Marcoux moved, Nowicki seconded, to approve Preliminary Plat #05-11 to be known as Meadow Lakes First Addition by Younge Development with nine conditions and adopt Resolution No. 155-05 approving the Substantial Land Alteration and denying the Design Modification #05-02 and instructed the City Attorney to prepare Findings of Facts, Conclusions of Law, and Order. Ayes (7),</p>

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E-9	<p>Nays (0). Motion carried.</p> <p>A Hearing on Type III, Phase III Conditional Use Permit #05-08 by Younge Development to allow for the placement of fill in the flood prone district located west side of West Circle Drive and south of the Meadow Lakes Golf Course.</p> <p>Wishing to be heard was Janet Walch, 622 44<sup>th</sup> Ave. Court SW. She asked about the fill. Staff explained that this action does not affect her property.</p> <p>Having no one further wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers Marcoux moved, McConnell seconded, to adopt Resolution No. 156-05 approving Conditional Use Permit #05-08 by Younge Development with three conditions. Ayes (7), Nays (0). Motion carried.</p>
F-1	<p>President Hanson moved to F-1 establishing the Willow Creek Transportation Improvement District and asked if anyone would like to speak.</p> <p>Having no one wishing to be heard, Councilmember Marcoux moved, Nowicki seconded to adopt Resolution No. 157-05 establishing the Willow Creek Transportation Improvement District. Ayes (6), Nays (1). Motion carried. Councilmember Carr voted nay.</p>
E-10	<p>A Hearing for Project No. J-7236 "Reconstruction of Commercial Drive and Woodlake Drive SE".</p> <p>President Hanson also opened the hearing for the Assessment Hearing for Project No. J-7236 "Reconstruction of Commercial Drive and Woodlake Drive SE". All testimony taken in Item E-10 will apply to E-11.</p> <p>Wishing to be heard was Roger Westfahl, 3550 Hwy 63 S. Mr. Westfahl stated that when talking to MNDOT about acquisition of right-of-way from his property for Woodlake Drive reconstruction, he was told by MNDOT that there would be no assessments to his property for the Woodlake Drive improvements. He received notice from the city of \$9583 worth of assessments. It was determined that he is in the assessment area.</p> <p>Wishing to be heard was Rita Westfahl, 3550 Hwy 63 S. Her concern is the lack of privacy, the increased traffic, loss of trees and the assessments after they were told many times by MNDOT that there would be no assessments. She stated they are very frustrated and don't feel they are being treated fairly.</p> <p>Richard Freese, Public Works Director, explained all the TH 63 project costs are in the bid and the city pays for its share of the bid with MNDOT. For the city to pay for their share, property owners abutting the project are assessed a portion of the cost. If MNDOT or the property owner would have contacted the City Public Works, they would have been told that this project would generate special assessments for the frontage roads. He explained that MNDOT will be in control of the project but they have to follow city regulations.</p>

Agenda Item	
	<p>President Hanson instructed staff to contact Mr. and Mrs. Westfahl to help them find the correct contact person at MNDOT to help them with the situation.</p> <p>Having no one further wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers Marcoux moved, Nowicki seconded to adopt Resolution Nos. 158-05 and 159-05 approving Project No. J-7236 "Reconstruction of Commercial Drive and Woodlake Drive SE" and assessments for Project No. J-7236. Ayes (7), Nays (0). Motion carried.</p>
E-11	See item E-10
E-12	<p>A Hearing for Project J-7235, "40<sup>th</sup> Street SW Interchange Willow Creek Transportation Improvement District".</p> <p>President Hanson also opened the hearing for the Assessment Hearing for Project No. J-7235, "40<sup>th</sup> Street SW Interchange Willow Creek Transportation Improvement District". All testimony taken in Item E-12 will apply to E-13.</p> <p>Wishing to be heard was Mark Leitzen, 309 60<sup>th</sup> Ave. SW. He stated he disagrees with the assessment.</p> <p>Having no one further wishing to be heard, President Hanson closed the hearing.</p> <p>Councilmembers Marcoux moved, Nowicki seconded, to adopt Resolution Nos. 160-05 and 161-05 approving Project J-7235, "40<sup>th</sup> Street SW Interchange Willow Creek Transportation Improvement District" and assessments for Project J-7235. Ayes (6), Nays (1). Motion carried. Councilmember Carr voted nay.</p>
E-13	See Item D-12.
F-1	See after item E-9.
F-2	<p>Councilmembers Marcoux moved, Means seconded adopt Resolution No. 162-05 authorizing a Municipal Cost Share Agreement with MNDOT for the Stage 2 construction of the TH 63/40<sup>th</sup> Street South interchange and associated local street improvements and initiate the sale of Bonds necessary to finance the project. Ayes, (6), Nays (1). Motion carried. Councilmember Carr voted nay.</p>
G-3a	The second reading for An Ordinance Amending Official Street Map No. 12 will be scheduled for the May 2, 2005 council meeting.
J-1	Having no further business, Councilmembers Nowicki moved, Carr seconded to adjourn the meeting. Ayes (7), Nays (0). Motion carried.

  
Deputy City Clerk